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Candace Havens  
Director

**WORKING SESSION MEMORANDUM**

**DATE:** May 11, 2012

**TO:** Alderman Marcia Johnson, Chair of Zoning and Planning Committee  
Members of the Zoning and Planning Committee

**FROM:** Candace Havens, Director of Planning and Development 

**SUBJECT:** **#411-09: Ald. Danberg, Mansfield, and Parker** requesting that Section 30-19 b(d)(13) be amended by adopting the Board of License Commissioners' current informal policies, which waive parking stall requirements for a set maximum number of seasonal outdoor seats in restaurants and require that indoor seats be temporarily reduced to compensate for any additional outdoor seats while they are in use, by establishing a by-right limit based on a proportion of existing indoor seats that will allow seasonal outdoor seats to be used without need for additional parking.  
**#207-09(2): Ald. Parker, Danberg, and Mansfield** proposing that Chapter 30 be amended to allow additional seating in restaurants.

**MEETING DATE:** May 14, 2012

**CC:** Board of Aldermen  
Bob Rooney, Chief Operating Officer  
Donnalyn Kahn, City Solicitor  
Dori Zaleznik, Commissioner of Health and Human Services  
Dave Turocy, Commission of Public Works  
John Lojek, Commissioner of Inspectional Services  
Chief Proia, Fire Chief

**BACKGROUND**

Both item #411-09 and #207-09(2) refer to restaurant seating for which a new parking demand may be created. The first item addresses the desire for outdoor seating and reconsideration of the associated parking requirements. The second item also will involve a discussion about parking and special permit requirements appropriate to restaurant uses, generally. Because both relate to restaurant parking requirements, staff recommends they be considered together.

## ANALYSIS

Outdoor seating is a significant public benefit in enlivening the streetscape. However, the Zoning Ordinance does not explicitly allow additional sidewalk seating as has been allowed by the Board of License Commissioners. Use of the sidewalk for this purpose requires approvals from several departments including Public Works, which controls activities on the sidewalk; the Fire Department, which addresses fire safety and access concerns; Health and Human Services, which deals with food handling and related health/safety matters; and Planning and Inspectional Services, which consider related parking and accessibility issues. The members of the Economic Development Cluster, which includes department heads from Inspectional Services, Planning, Health and Human Services and Bob Rooney from the Executive Office in consultation with Public Works and Fire, are actively collaborating on this matter and are investigating the following issues:

- Parking requirements for additional tables. Adding seating in restaurants increases the parking requirement, though many restaurants may not be able to provide more spaces on-site as required by law. Whether indoors or outdoors, should there be some additional relief for restaurants? Some restaurants have addressed the parking issue by restricting use of a comparable number of interior seats inside; otherwise, a parking waiver would be required. Some restaurant owners have claimed this is a hardship for their businesses and would like more leniencies with parking requirements for expanding their offerings during warmer months. Establishment of in-lieu fees and other means of addressing parking supply and demand may offer some relief, and consideration of this issue may be influenced by the outcome of that discussion.
- Accessibility. Space on sidewalks for seating is limited. What assurances can we offer that safe access will be provided for all possible patrons?
- Egress on the public way. Again, with limited space for tables and chairs, how can we assure safe and ample use of the sidewalks for their primary purpose?
- Consumption of liquor on public property. Local laws prohibit consumption of alcohol on public property; however, some sidewalks are partially owned by private property owners. If a restaurateur has a liquor license, should drinking be allowed outdoors? Only on the privately-owned land? On the City-owned sidewalk? Not at all?
- Cost of associated improvements. In some cases, physical improvements may be necessary or desirable to accommodate outdoor seating. What arrangements could be made to cover these costs?
- Enforcement. The Department of Public Works has oversight of the public sidewalks. Which department will oversee conformance to new standards for outdoor seating?
- Indemnification. What are the legal responsibilities of the parties and how can the City be protected?

## RECOMMENDATION

The Economic Development Cluster is actively working to produce a proposal for a comprehensive sidewalk café ordinance by the end of the summer, so the Board can discuss and determine the appropriate course of action by fall, and a process can be in place by spring 2013. Given that in-lieu fees and other parking supply/demand issues are also currently under discussion, we recommend no action on these items at this time and propose to docket appropriate language by September 2012 to establish reasonable standards for restaurant seating that encourages village vitality and addresses the concerns mentioned above.